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SUBJECT: BOSNIA - BRCKO AMENDMENT BEGINS LONG AND ARDUOUS PATH  
THROUGH PARLIAMENT

REF: SARAJEVO 183

¶1. (SBU) Summary: Now that the Brcko amendment has passed in the Council of Ministers (CoM), Parliament has begun the legislative process necessary for its eventual passage. The Collegia of both Houses of Parliament (i.e., the Speaker and two Deputy Speakers from each House) are working to prepare the amendment for committee review with an eye toward a Qfirst readingQ in both Houses at the beginning of March. A public debate will follow, during which delegates may propose changes to the text in advance of the second -- final -- reading in both Houses. Ambassador and Principal Deputy High Representative (PDHR) Gregorian met with the HoR Collegium and caucus heads on February 17 to discuss the parliamentary procedure and urge political parties to support the amendment. Both men will meet with the HoP Collegium and caucus heads later in the week. Our goal remains maintaining the procedural and political momentum behind the amendment that we have built over the last week. This strategy should help blunt criticism from the amendmentQs opposition, which right now primarily includes Bosniak member of the Tri-Presidency Haris Silajdzic. End Summary.

Council of Ministers Sends Amendment to Parliament  
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¶2. (SBU) After the CoM approved the amendment on February 12 (Reftel), it introduced the amendment into Parliament on February ¶16. Per procedure, the amendment went first to the Collegia of both Houses of Parliament. The amendment must now pass through procedure first in the House of Representatives (HoR) and then in the House of Peoples (HoP). Marin Vukoja, HoP secretary general, has promised us that he will work to ensure that the HoP procedure moves in parallel with the HoR -- passing each stage of the process within a day or two of the HoR -- so that the amendment can pass as quickly as possible. The HoR will present the larger hurdle, as the amendmentQs opponents -- notably Haris SilajdzicQs Party for BiH (SBiH) -- hold a greater proportion of seats in the HoR than in the HoP. If SBiH is able to persuade just a handful of parliamentarians from parties that support the amendment to break with their party leadership and vote against it in the HoR, it will be difficult to secure the necessary two-thirds majority for the amendmentQs passage.

HoR Collegium Supportive  
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¶3. (SBU) Ambassador and PDHR Gregorian met on February 17 with the HoR Collegium to express support for the amendment and urge them to ensure that it proceeds through Parliament as quickly as possible. Ambassador stressed to Beriz Belkic (SBiH), Milorad Zivkovic (Alliance of Independent Social Democrats, SNSD) and Velimir Jukic (Croatian Democratic Union, HDZ-BiH, filling in for Niko Lozancic) the importance of this amendment to resolving Brcko, on which the USG has worked for 13 years and to which Head of the Brcko Tribunal Roberts Owen and several Brcko Supervisors have contributed. Belkic

acknowledged that despite individual political views on the amendment, it is the responsibility of the Collegium to ensure that Parliament addresses the amendment quickly, and he pledged to work with HoP colleagues to this end. Zivkovic expressed his party's full support for the amendment and suggested that an extraordinary session could be called in late March to hold the second reading. Jukic declared that HDZ-BiH supports the amendment and that the party would work for its speedy adoption. Ambassador and PDHR also met on February 17 with HoR caucus heads -- including the Party of Democratic Action (SDA), SBiH, the Social Democratic Party (SDP), HDZ-BiH, HDZ-1990, SNSD, and the Serb Democratic Party (SDS) -- to explain the evolution of the amendment and seek support for it. Ambassador emphasized that the USG strongly supports this carefully crafted amendment, which is in the interest of citizens of Brcko and Bosnia and, if passed, would fulfill the requirements of the Tribunal.

#### Expected Timeline through March 5: The First Reading

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14. (SBU) The Parliamentary Assembly Rules of Procedure do not allow for constitutional amendments to be considered in expedited or urgent procedure, so the amendment must proceed through regular procedure. The amendment's quick adoption will depend on the will of the parties and key figures to coordinate activities and facilitate parallel processes in both Houses. The full process of adopting amendments to the Constitution could take up to three and a half months, unless there is the will to expedite. Unless the amendment encounters major obstacles, and assuming a will to expedite, it should proceed according to the following timeline:

-- The HoR Collegium will meet on February 17, and the HoP Collegium will convene on February 18. The responsibility of the Collegia is

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to appoint the appropriate committee to initiate the first reading in its respective House.

-- The Collegia also plan to send the proposed amendment to the Presidency for its opinion on the same day as they appoint the appropriate committee. Although the Presidency's opinion is necessary, its approval is not, so the Presidency cannot obstruct the progress of the amendment. Nonetheless, this step presents an opportunity for Silajdzic to create political problems.

-- Both Collegia are expected to select as the relevant committee their respective Constitutional and Legislative Affairs Committees (CLAC), which will be tasked with providing their opinion on whether the proposed amendment complies with the Constitution and legal system.

-- The CLACs will prepare the report for the first reading in each House. The HoR CLAC must complete this report within 10 days and the HoP CLAC within 15 days of receiving the proposed amendment from the Collegia. A simple majority is required in both CLACs for the amendment to pass. The HoR CLAC is scheduled to vote on the amendment on February 26. This vote will mark the first test of HDZ-1990's commitment to the amendment, as HDZ-1990 has a CLAC member.

-- Assuming the CLACs approve the amendment, the earliest the HoR could hold the first reading would be at its regular session on March 5. The HoP would aim to hold its first reading shortly thereafter. A simple majority is required to pass the amendment in the first reading in both Houses. At this stage, the amendment enters a new phase of legislative procedure.

#### Next Step: Public Debate

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15. (SBU) The two Houses are bound by the Constitution to commence a public debate on the proposed amendment not later than 30 days after the amendment is introduced into Parliament (by March 20). At the first readings, both Houses are expected to adopt a conclusion to conduct the public debate jointly, which will simplify the process by avoiding two separate public hearings. This debate must occur

after the first reading and last for at least 15 days. If the first reading occurs on March 5 and the debate lasts the minimum length of days, it should take place from March 5 through 20.

#### Subsequent CLAC Deliberations Critical

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¶16. (SBU) During the public debate, delegates may propose changes to the text of the amendment, which the CLACs would vote on and discuss in a final report after the debate. These CLAC deliberations could well be the deciding factor in the amendment's fate. Haris Silajdzic is already peddling legal arguments against the amendment. Assuming the amendment passes through the first reading, the public debate could open the door for SBiH -- which holds two positions on the nine-member HoR CLAC -- to propose changes that may resonate with wavering members of other parties, particularly SDA and HDZ-1990. Our lobbying efforts with each CLAC member at this stage will be crucial to ensuring that SBiH does not gain a foothold with those parties.

#### Second Reading

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¶17. (SBU) Following the public debate, the CLACs will prepare their final report to submit it to their respective Houses. The HoR Collegium can arrange a second reading -- which will culminate in a vote to pass the amendment -- at any time. If the HoR does so, the HoP may follow suit. Assuming the public debate concludes on March 20, the earliest the HoR Collegium could schedule the second reading would be April 1, the first regular session after the HoR convenes on March 18. It would be possible for the HoR to either a) delay its March 18 session by several days in order to include the amendment on its agenda, or b) schedule a special session after March 18 but before the March 26 PIC to consider the amendment only.

There are political pros and cons to either of these two options, which the Collegium (and we) would have to weigh carefully.

#### Final Vote

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¶18. (SBU) Passage of the amendment in the HoR requires a two-thirds majority of members present and voting (28 out of 42), with a minimum of one-third from each entity (nine votes from the Federation and five from the RS). This means that if SDA, SNSD, SDP, HDZ-BiH, HDZ-1990, the Party of Democratic Progress (PDP), and SDS vote in favor of the amendment, it will secure only a narrow

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majority, which underscores the importance of ensuring that all delegates from each of these parties are on board. If the amendment passes in the HoR, it will move immediately to the HoP, which requires only a simple majority (eight out of 15), with at least one-third from each entity (three from the Federation and two from the RS). Assuming SDA, SNSD, HDZ-BiH, SDP, and PDP support the amendment in the HoP, it will pass easily with 11 votes.

#### Comment

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¶19. (SBU) Bearing in mind the challenges that the public debate and subsequent CLAC deliberations will bring, we will focus in the coming weeks on moving the amendment through the first reading. This means engaging caucus heads and CLAC members in both Houses to stress with them that Brcko remains a priority for us and that we expect their support at each stage of the process. Our engagement throughout this process will be crucial to ensuring that it does not lose steam amid the long, onerous legislative process.

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